



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Timothy R. Ryan et al.

Examiner: William H. Matthews

Serial No.: 09/982,299

Group Art Unit: 3738

Filed: October 16, 2001

Docket No.: M190.137.101

Due Date: January 16, 2003

Title: ANNULOPLASTY BAND AND METHOD

RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

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Sir/Madam:

In response to the Restriction Requirement mailed December 16, 2002, Applicant hereby elects the invention of Group I (claims 1-16 and 30-33) with partial traverse for the reasons provided below. In particular, it is respectfully believed that a restriction between Group I and Group II (identified by the Examiner as including claims 17-20) is improper. Independent claim 17 relates to a method of implanting an annuloplasty band for repair of an atrio-ventricular valve having a valve annulus and includes providing an annuloplasty band including a sheath and a stiffening element extending from a first end to a second end, with each end forming an eyelet adapted to receive a suture. This is same as the annuloplasty band limitations of claim 1 (of Group I). Further, the distinction set forth in paragraph 5 of the Office Action (i.e., "The process as claimed could be used with materially different products such as heart valves delivered by a catheter wherein the size is determined by non-invasive tools such as x-ray.") is unrelated to the annuloplasty band recited in claim 1. Therefore, it is respectfully submitted that a restriction between the inventions of Group I and Group II is improper, such that claims 1-20 and 30-33 should be examined.

With respect to the species identified by the Examiner in paragraph 7 of the Office Action, Applicant elects the asserted species of FIG. 1, and contends that all claims of the elected invention (including claims 1-20 and 30-33) are generic to the embodiments of FIG. 1 and FIG. 25. To this end, it is noted that the stiffening element 42 is the same in both FIGS. 1 and 25.

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Having thus addressed the restriction requirement and species election imposed by the Examiner, consideration of the pending claims is respectfully requested.

Respectfully submitted,

Timothy R. Ryan et al.,

By their attorneys,

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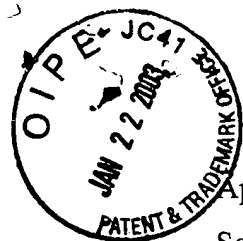
Reg. No. 39,649

CERTIFICATE UNDER 37.C.F.R. 1.8: The undersigned hereby certifies that this paper or papers, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope address to: Assistant Commissioner for Patents, Washington, D.C., 20231 on this 16th day of January, 2003.

By

Timothy A. Czaja

Name: Timothy A. Czaja



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Sir/Madam:

We are transmitting herewith the attached:

- ☒ Transmittal Sheet containing Certificate of Mailing (1 pg.).
- ☒ Response to Restriction Requirement (2 pgs.).
- ☒ Return Postcard.

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers, if appropriate. At any time during the pendency of this application, please charge any additional fees or credit overpayment to Deposit Account No. 500471.

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By: Timothy A. Czaja
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Reg. No.: 39,649

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